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PART II.

JUDICIAL DEPARTMENT.

IN THE CHIEF COURT OF MYSORE.

CIVIL SIDE.

Notification dated the 28th March 1911.

It is hereby notified that the following Rules for the service and execution of processes issued by the Civil Courts in the Mysore State, and the fees chargeable therefor, framed by the Chief Court under the provisions of Section 29 of the Mysore Court Fees Regulation, in supersession of those contained in Notification dated 25th January 1905, have received the sanction of Government and shall come into force from the 1st July 1911.

1. At all stations the process establishment shall be under the immediate direction of a Process Nazir, who shall be under the control of the Munsiff to whose court it is attached.

2. (*a*) There shall be two classes of Process Nazirs and their pay shall be 1st class Rs. 25—1—30, and 2nd class Rs. 20—1—25, a month.

Process Nazirs of the 1st class shall be provided for Munsiffs' Courts graded as 1st class, and Process Nazirs of the 2nd class for the Munsiffs' Courts graded as 2nd and 3rd classes.

(*b*) There shall be two classes of Amins and their pay shall be 1st class Rs. 16 and 2nd class Rs. 14, a month.

The proportion of Amins in the higher grade shall not exceed 1 to 2 in the lower grade.

(*c*) There shall be two classes of peons and their pay shall be 1st class Rs. 8, and 2nd class Rs. 7, a month.

The proportion of peons in the higher grade shall not exceed 1 to 3 in the lower grade.

The appointment of Process Nazir and his establishment shall be made by the Munsiff to whose Court they are attached. All appointments shall be subject to the provisions of Section 21 of the Civil Courts Regulation No. 1 of 1883.

2. Each Process Nazir must furnish security in the sum of Rs. 250 or in such higher sum as may be fixed by the Chief Court. Each Amin of the 1st class must furnish security in the sum of Rs. 120 and each Amin of the 2nd class in the sum of Rs. 100. The security in the case of the 1st class peons shall be Rs. 75 and for those of the 2nd class Rs. 50.

4. The security to be furnished by Nazirs and Amins shall either be by bond with deposit of title-deeds of immoveable property, or deposit of cash or Government Promissory Notes; and the security to be furnished by peons shall be by bond with two sureties, or by deposit of cash, which should be invested in the District Savings Bank in the name of the depositor.

5. The 'proper officer' to whom processes shall be transmitted for service under Section 72 of the Code of Civil Procedure, 1882, shall be the Process Nazir of the Munsiff's Court within whose jurisdiction the processes are to be served.

6. The processes of each Court shall be numbered consecutively as soon as all the batta charges have been paid, and shall be entered in a register in Form A and issued for service in the order of receipt, precedence, however, being given to urgent processes issued as per Rule 18 and Note 3 to Rule 24.

The amount of batta to be paid must be notified on each process sent for service but shall be retained with the Court Nazir.

7. At 3 P.M., daily the Chief Ministerial Officer of each Court shall sign the register of Processes and process fees and transmit it to the Process Nazir together with the processes to be served or executed by him, which have been prepared upto that hour. Any processes prepared after 3 P.M., shall be sent to the Nazir not later than 11-30 the following morning together with the Register signed as above. After verifying the entries relating to himself. the Process Nazir shall return the Register to the Court concerned with his countersignature.

8. One hour before the post time for each outlying station the Chief Ministerial Officer of each Court shall have a list prepared in Form A, of all processes to be served or executed within the jurisdiction of such outlying court, and such list shall be forthwith sent by post on Mysore Government Service to the Process Nazir of that station together with all such processes.

9. On receiving any batch of processes, the Process Nazir shall consecutively number and enter them in a register which shall be kept by himself or under his superintendence in Form B.

10. He shall thereupon arrange for the distribution of the processes, and, after the necessary entries have been made in the Roster (Form C), shall deliver them to the several Process Servers. As far as possible all processes other than warrants of arrest, for persons residing in the same neighbourhood shall be served by one process server and not by several whether issued by the same or different courts.

Every Process Nazir shall be held directly responsible for the proper service and return in due time of the processes.

The Process Servers should maintain a Register in Form D.

11. Every day, at such hours as the controlling officer may fix, having regard (when necessary) to the hours at which the post closes, the Process Nazir shall enter in a despatch book or list the processes to be returned to each court giving them their original court numbers, and shall transmit them to the Chief Ministerial Officer, who shall sign and return the despatch book or list.

12. It shall be the duty of the Chief Ministerial Officer to have the processes returned and the batta amounts, if any, disbursed thereon entered in the appropriate columns of his Register A and to bring to the notice of the presiding Judge any unusual delay.

13. At the close of each day, every Process Nazir shall enter in his Register B the number of processes distributed during the day and the number of peons remaining unemployed after the distribution.

14. When a warrant for the arrest of a judgment-debtor is returned unexecuted, the Amin or process server will at once be placed before the Court by which the warrant was issued with a view to his being examined in the manner prescribed by Section 343 of the Code of Civil Procedure. If the Court finds it inconvenient to make such examination as soon as the process server is so placed before it, it may postpone such examination to such other date as may be fixed by it, provided that the time that intervenes between such date and the date fixed for the return of the warrant is sufficient to admit of the process being re-issued in the event of the Court holding that there was not sufficient cause for the warrant being returned unexecuted.

15. When any person has been arrested or moveable property seized, by a process server of an outlying Court under a warrant issued by a Court superior in grade to the outlying Court, the process server shall forthwith bring such person or property to the station of such Court and deliver him or it to the Process Nazir, provided that this rule shall not apply to property not required to be brought to the Court-house.

Such Process Nazir shall immediately give the process server a receipt and send him back to his own Court, and shall produce such person or property before the Court which issued the processes.

When money shall have been recovered upon any such process, it shall be received by the outlying Court, and duly transmitted, together with the process, to the Court concerned.

16. A permanent advance of Rs. 200 will be made to each Process Nazir for the batta of witnesses, etc. The amount of batta notified on each process sent to the Nazir for service will be paid out of it unless, in special instances, moneys are sent along with process, in which case the amount should be credited in Register F as soon as it is received.

The Chief Court may at its discretion increase or reduce the permanent advance of any particular Process Nazir.

All moneys received, disbursed or remitted by the Process Nazir shall be at once entered in Register F.

Whenever the Process Nazir of a Court has not sufficient money in his hands to pay for processes that have to be issued for service, he may, with the sanction of the presiding Judge of such Court, draw the amount required for such processes as are of his own Court as an advance from the said Court and enter the sum so received in Register F. The sums so drawn should be adjusted in due course by their being included in bills drawn under the next rule.

17. On or before the 6th of each month, or whenever a sum of Rs. 25 or more is due by any Court, the Process Nazir shall send to the Court concerned a bill in Form E showing the account between them.

The Head Ministerial Officer of each Court shall, on receipt of the bill, carefully check it with reference to his Register A, object to items not admissible in the remark column and prepare an extract of such items with details. He shall total the remaining items and pass the same for payment and send the bill together with the extract of objections to the Court Nazir. The latter shall, after debiting the passed items individually in his Cash Register, forward the amount together with the passed bill and the extract to the Process Nazir who will endorse the receipt of money on the bill and forward it to the Court Nazir retaining the extract for further action.

The Courts in the same station as the Process Nazir should remit the amount claimed within three days of receipt of the bills and a week should be the longest time allowed in the case of Courts at outlying stations.

The amount due to each Process Nazir of an outlying station must be remitted through the Government Treasury if there is a Treasury at the outlying station and if not by a postal money order the cost of which may be charged in the contingent bill.

18. The presiding Judge of any Court may, for any sufficient reason, at any hour of the day, transmit a process for emergent execution, and it shall be the duty of the Pocess Nazir on receiving such process signed by the Judge to make immediate arrangements for its execution.

In a case of very special urgency, the presiding Judge may deliver any such process to one of the process servers in attendance on his Court for immediate service or execution.

19. The presiding Judge of any Court may direct, on the application of the party applying for the particular process which should ordinarily be sent for service to an outlying Court, that it be served or executed by a special process server from headquarters : provided that the pay of such process server at the rate of four annas a day for a peon or eight annas for an amin, for the time he is likely to be employed on such duty, be paid in advance ; and the Judge may, for any sufficient reason, direct that such extra charge be costs of the suit or proceeding.

20. Except for very special reasons, which must be recorded in writing, no Court shall direct that a judgment-debtor be left in the custody of a peon, unless a second peon is deputed to assist him and the pay of both at four annas a day for each up to the time fixed for the adjourned hearing, be paid in advance.

Payments under this and the preceding rule shall be made in process Service stamps.

21. Unless the Chief Court shall otherwise direct, upon due cause being shown, the number of Amins and peons to be employed under any process Nazir shall be sufficient, and no more than sufficient, for the execution of not less than 150 processes a year by each amin and not less than 400 processes a year by each peon, provided that 3 peons for each Court shall be told off in rotation for 10 days at a time to attend the Court to help to keep order and guard the Court house and to be available for emergent processes under Rule 18.

22. In calculating the number of processes, if more than one of the same description have been issued on behalf of the same party at the same time in the same suit or proceeding and executed in the same town or village, the first only shall be reckoned as a full process, and each subsequent set of three or part thereof shall count as but one process, whether executed by one or more peons. Three processes will be counted for each emergent process and one for each day that a peon is in charge of a judgment-debtor or engaged on any special duty.

23. At the end of each month every process Nazir shall prepare a statement showing the total number of processes calculated as above executed by each amin or process-peon

during the month, noting also the number of processes declared by the several Courts as emergent and shall submit the same to the District Judge. The District Judge shall forward the same in original to the Chief Court for perusal and return.

The District Judge shall reduce the number of peons in any process establishment in his division whenever the average number of processes for each man (exclusive of those allowed under Rule 21 to be in attendance in the Courts) falls short of the prescribed minimum by more than ten per centum, provided that if sufficient cause appears for lowering the minimum, he may report the matter for the orders of the Chief Court.

The District Judge will obtain and forward to the Chief Court a monthly return of receipts and disbursements on account of the service of processes showing the number of processes arrived at in the manner laid down in Rule 22 separately of amins and peons excluding only those on which no action has been taken by the peon or amin, owing to the petition having been compromised or withdrawn or for any other reason, after the process has been issued. The processes issued to amins will comprise all processes for attachment or sale or delivery of possession of property movable or immovable and certain warrants of arrest. Those of peons will include all summonses, notices, written orders and ordinary warrants of arrest and the simpler forms of injunction and proclamation.

24. The fees chargeable for serving and executing process issued by the Civil Court shall be :—

	Rs.	a.	p.
1. For each summons or notice—			
(*a*) To a single defendant, respondent or witness	0	8	0
(*b*) To every additional defendant, respondent or witness residing in the same village or town if the process be applied for at the same time	0	4	0
2. Warrant of arrest	1	0	0
3. Proclamation of sale	0	8	0
4. Warrant of attachment of moveable or immoveable property ...	1	0	0
5. Warrant of sale of immoveable property in cases exceeding Rs. 50 in value	1	0	0
6. Do do not exceeding Rs. 50 in value	0	8	0
7. Warrant of sale of moveable property	0	8	0
8. Warrant of delivery of possession of property, moveable or immoveable if no attachment has taken place ...	The fee for attachment of said property.		
If the attachment has taken place,			
For immoveable property	1	0	0
For moveable property	0	8	0
9. Injunction, order or notice not otherwise provided for ...	0	8	0
And for every additional process of the same nature if applied for at the same time and if the person to be served resides in the same neighbourhood	0	4	0

N. B.—(1). Where warrants are to be executed in different places separate warrants with separate fees levied, should be issued if the places not being in the same village or town are more than five miles apart.

(2). The fees chargeable for warrants of sale is in addition to actual charges of advertisements as well as the commission, if any, payable in the case of sales conducted through special agency under the orders of the Court.

(3). For processes ordered to be executed as emergent on the application of parties, the fee will be the ordinary fee and half as much again.

(4). No fee is to be charged for any process issued by a Court of its own motion.

V. A. RAJARATNA MUDALIAR,
Registrar.